Ram Prasad & Anr. vs. State of Rajasthan
(S.B.Criminal Revision No.280/93)

Dated:- 8.1.2007.

HON'BLE MR.JUSTICE G.S.SARRAF

Mr.P.N.Mohnani, for the petitioners.
Mr.S.N.Tiwari, Public Prosecutor.

The petitioners have filed this revision petition against the judgment dated 18.8.1993 of the first appellate court-Special Judge and Additional Sessions Judge, Pratapgarh affirming the order of conviction of the petitioners u/s 467 IPC passed by Munsif and Judicial Magistrate, First Class, Chhoti Sadari on 20.8.1988 but reducing the sentence of three years' rigorous imprisonment to one year rigorous imprisonment and fine.

Learned counsel for the petitioners submits that the real culprit in the case is Bhupindra Kumar who is the stamp vendor and typist. He is the person instrumental in forging the sale-deed Ex.P/1 as is evident from the judgment of the trial court. But the order of cognizance against him was set aside by order dated 29.1.1983 of the District & Sessions Judge, Pratapgarh inspite of the fact that earlier petition filed by him u/s 482 Cr.P.C. was dismissed by the High Court vide order dated 10.8.1976. He further submits that the petitioners are mere attesting witnesses of the document Ex.P/1 which is alleged to be forged and therefore, it cannot be said that the

petitioners have forged the document Ex.P/1. He has placed reliance on AIR 1961 Gujarat p.117 .

Learned Public Prosecutor has supported the judgment of the first appellate court.

It is not at all disputed that the petitioners are merely attesting witnesses of the sale-deed Ex.P/1. In my opinion, a person who merely attests a forged signature cannot be said to have forged that document because mere attestation of a document does not amount to making a forged document. The petitioners, therefore, cannot be convicted of the offence u/s 467 IPC. I am supported by A.I.R. 1961 Gujarat 117.

I , therefore, hold that the petitioners have not committed any offence of forgery. .

Accordingly, the revision petition is allowed. The conviction of the petitioners u/s 467 IPC and the sentence passed against them under that section are set aside and the petitioners are acquitted. Bail bonds of the petitioners are cancelled.

(G.S.SARRAF),J.